



---

IN THE  
**Supreme Court of the United States**

October Term, 1975

No. 75-562

ROSEBUD SIOUX TRIBE,  
*Petitioner,*

v.

HONORABLE RICHARD KNEIP, ET AL.,  
*Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

**RESPONDENTS' OBJECTION TO MOTION FOR  
LEAVE TO FILE BRIEF AMICI CURIAE**

William J. Janklow  
Attorney General  
State of South Dakota  
Capitol Building  
Pierre, South Dakota 57501

William F. Day, Jr.  
Attorney for the Four Counties  
Fifth and Main Street  
Winner, South Dakota 57580

Tom D. Tobin  
Special Assistant Attorney General  
422 Main Street  
Winner, South Dakota 57580

*Attorneys for Respondents*

---

IN THE  
**Supreme Court of the United States**

October Term, 1975

No. 75-562

ROSEBUD SIOUX TRIBE,  
*Petitioner,*

v.

HONORABLE RICHARD KNEIP, ET AL.,  
*Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

**RESPONDENTS' OBJECTION TO MOTION FOR  
LEAVE TO FILE BRIEF AMICI CURIAE**

Respondents hereby file objection to the motion by the Association on American Indian Affairs, Inc., and the Oglala Sioux Tribe of the Pine Ridge Indian Reservation for leave to file a brief *amici curiae*. Respondents' objection is based on the following grounds:

1. As a matter of record Respondents have never before objected to *amicus curiae* participation of any responsible party in litigation of this nature. In return for this consideration, Respondents have asked only that such participation be timely in order to permit an opportunity to respond. Although the Association on American Indian Affairs, Inc., and the Oglala Sioux Tribe had actual notice of the Petition before it was even filed and could, therefore, have filed a brief

*amici curiae* within a reasonable time prior to the consideration of the Petition, they did not choose to do so. As a result, Respondents did not receive a copy of the brief *amici curiae* until the Brief for Respondents in Opposition had been mailed to this Court for filing. No reason for this untimely delay is set forth in the motion. Respondents have been denied an opportunity to respond and contrary to Rule 42(1) the brief *amici curiae* was not submitted a reasonable time prior to consideration of the Petition.

Moreover, *amici curiae* have been aware of the general position of Respondents with respect to undue delay as a result of having participated in *DeCoteau v. District County Court*, 420 U. S. 425 (1975). Two weeks prior to filing this motion, Respondents informed counsel for *amici curiae* that consent would regretfully be withheld unless a timely filing permitted an opportunity to respond. Even in this respect, Respondents did not want to formally file an objection, but counsel for *amici curiae* thereafter refused to include in their motion a copy of any letter of Respondents to this Court stating the reasons why consent had been withheld. Respondents are aware of the admonition of this Court that motions of this nature are not favored. Under the circumstances, however, Respondents were left with no alternative but to withhold consent.

2. In three years over 1200 pages of documentation and argument were submitted to the courts below. The United States Government supported the position of the Tribe as *amicus curiae*. Counsel for Petitioner is a highly skilled and acknowledged Indian Claims Attorney. The 33-page Petition exhaustively deals with every aspect of the decision below that could even arguably merit attention. In addition to this expertise, the Office of the Solicitor General also intends to file a brief *amicus curiae* in support of the Petitioner in the near future. With all due respect, Respondents sincerely doubt that there are any "specific points" that the parties "are not likely to address." Motion at 3. In this light and at

this point in time, another brief *amici curiae* would seem to unnecessarily distract both counsel and the Court from the issue actually involved.

3. On November 17, 1975, Respondents were notified that a petition for a writ of certiorari directed to a similar issue involving the Oglala Sioux Tribe and a portion of their original Pine Ridge Reservation would be filed by December 24, 1975. Since counsel for the Association on American Indian Affairs also represents the Oglala Sioux Tribe, Respondents would submit that the arguments the Association and the Tribe wish to present to this Court could more appropriately be set forth in a brief therein. There is no reason why such a brief could not be filed within a reasonable time prior to consideration of the petition. Respondents would then have an opportunity to respond which has been effectively denied in the instant case.

For each and all of the foregoing reasons, the motion of the Association on American Indian Affairs and the Oglala Sioux Tribe should be denied.

Respectfully submitted,

William J. Janklow  
Attorney General for South Dakota

William F. Day, Jr.  
Attorney for the Four Counties

Tom D. Tobin  
Special Assistant Attorney General

*Attorneys for Respondents*

December, 1975